

Message Text

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42

ACTION OPIC-06

INFO OCT-01 ISO-00 ARA-06 EB-07 COME-00 L-03 XMB-02 AID-05

(ISO) W

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R 162032Z JUL 75

FM AMEMBASSY SAN SALVADOR
TO SECSTATE WASHDC 8611

LIMITED OFFICIAL USE SAN SALVADOR 2833C O R R E C T E D C O P Y (TEXT
)

E.O. 11652: N/A

TAGS: EINV, ES

SUBJECT: OPIC BILATERAL

REF: SAN SALVADOR 2202

1. BIRD/MANSBACH VISIT (SEPTEL) PROVIDED OPPORTUNITY TO DISCUSS GOES
PORBLEMS WITH US PROPOSED OPIC BILATERAL. AS REPORTED REFTEL, THE
PROPOSED AGREEMENT HAS NOT BEEN APPROVED BY THE LEGAL STAFF OF
LEGISLATIVE ASSEMBLY ON GROUNDS ITS PROVISIONS CONTRAVENE PROVISIONS
OF
THE SALVADORAN CONSTITUTION. FOREIGN MINISTRY HAS DEVELOPED
COUNTERDRAFT DESIGNED TO OVERCOME THESE OBJECTIONS, WHICH IT IS NOW
DISCUSSING WITH OTHER ELEMENTS OF GOES.

2. IN JULY 14 INTERVIEW WITH SUBSECRETARY CASTANEDA, OPIC REP
STRESSED DESIRABILITY OF REACHING AGREEMENT ON BILATERAL BEFORE NOVEM-

BER INVESTMENT MISSION. CASTANEDA EXPLAINED EFFORTS OF MINISTRY TO
OVERCOME OBJECTIONS OF LEGISLATIVE ASSEMBLY LEGAL STAFF. THEY HAVE
DISCUSSED THEIR COUNTERDRAFT WITH THE CHIEF LEGAL OFFICIAL AT THE
ASSEMBLY, WHO INDICATED VERBALLY HE THOUGHT MINISTRY DRAFT WOULD OVER-

COME CONSTITUTIONAL OBJECTIONS. IT WAS AGREED THAT OPIC WOULD
REVIEW COUNTERDRAFT FROM US POINT OF VIEW, WITH UNDERSTANDING THAT
COUNTERDRAFT IS NOT YET OFFICIAL PROPOSAL OF GOES. FULL TEXT
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BEING AIR POUCHED JULY 17.

3. FOLLOWING ARE CHANGES MADE BY MINISTRY COUNTERDRAFT IN US
PROPOSAL:

A. ART. 3 HAS BEEN CHANGED TO UNDERLINE THAT GOES WILL RECONGNIZE
SUBROGATION AS VALID ONLY IF SUBJECT TO THE LAWS OF EL SALVADOR;

B. ART. 5 PROVISION FOR MAKING DISPUTES ARISING FROM EVENTS
CAUSING PAYMENT UNDER INVESTMENT QUARANTY SUBJECT TO NEGOTIATION
BETWEEN GOVERNMENTS AND POSSIBLE BINDING ARBITRATION IS OMITTED.
ONLY DISPUTES REGARDING INTERPRETATION OR APPLICATION OF AGREEMENT
REMAIN SUBJECT TO ARBITRATION;

C. A NEW ARTICLE IS ADDED STATING THAT CLAIMS ARISING BETWEEN THE
TWO GOVERNMENTS RESULTING FROM PAYMENT UNDER A GUARANTY WILL BE
SETTLED IN ACCORDANCE WITH THE LAWS OF EL SALVADOR;

D. EDITORIAL AND TRANSLATION CHANGES HAVE BEEN MADE IN ART. 6
OF U.S. DRAFT.

4. ACTION REQUESTED: PLEASE ADVISE ASAP ANY PROBLEMS FOR OPIC IN
COUNTERDRAFT, IN ORDER TO PREVENT GOES FROM SETTING UNACCEPTABLE
POSITION IN CONCRETE.

CAMPBELL

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